IN THE HIGH COURT OF JUDICATURE AT BOMBAY
Appellate Side
Public Interest Litigation No.36 of 2003

Shri Sharad Baburao Patil. .. .. Petitioner
v/s.
State of Maharashtra & ors. .. .. Respondents

Mr.Surel Shah for petitioner.

Mr.Y.S.Jahagirdar, Senior Advocate with Mr.V.B.Rajure for respondent No.3.

CORAM : H.L. GOKHALE, ACTING C.J. & V.M. KANADE, J.

DATED : 5th March 2007

P.C. :

1. Heard the learned Counsel for the parties.

2. Mr.Jahagirdar, learned Counsel appearing for respondent No.3-Karkhana, has tendered an Affidavit affirmed on 5th May 2007 of one Mr.Vasant Shivling Chavan, Managing Director of respondent No.3-Sugar factory. The Affidavit contains certain undertakings. In para-1 of the said Affidavit, an undertaking is given that a Bank Guarantee of a Nationalized Bank to the tune of Rs.One Crore Fifty Lakhs will be given as a security towards the installation of ESP system for controlling pollution. That will be given in the name of the Registrar General, High Court, Mumbai, within a period of two weeks from today.

3. In para-2 of the said Affidavit, there is an undertaking that the Karkhana will start its crushing season for the period 2007-2008 only after this ESP system is installed. It is, therefore, implied that at the end of the present crushing period the activity of the Karkhana will come to a halt and will not re-start unless the ESP system becomes functioning.

4. It is stated in para-3 of the said Affidavit that out of the present six boilers, not more than two boilers will be operated for the purpose of distillery, if required. Mr.Jahagirdar has clarified that this means that, may be one boiler will be operated or two will be operated or none of the boilers will be operated, but in no case, not more than two boilers will be operated.

5. In para-4 of the said Affidavit, there is a statement that no steam is supplied to leased paper factory by respondent No.3-Karkhana.

6. Lastly, in para-5 of the said Affidavit, there is a statement that the orders will be placed for ESP system at the earliest and the Karkhana will take steps to install new system

before the next crushing season.

7. Mr.Jahagirdar assures that the undertakings given in the aforesaid Affidavit will be ratified in the next meeting of the Board of Directors.

8. We accept all the aforesaid undertakings mentioned in the said Affidavit and in view of the acceptance of these undertakings, this Writ Petition will stand disposed of.

9. Mr.Jahagirdar, learned Counsel appearing for respondent No.3-Karkhana, points out that the petitioner has filed a Contempt Petition for breach of the interim order which is passed in this Petition. That order has been subsequently vacated.

10. Mr.Surel Shah appearing for the petitioner points out that the petitioner was agitating this cause single handedly against this mighty respondent No.3-Karkhana and, therefore, during the intervening period, had to suffer harassment and intimidation. Mr.Jahagirdar states that no such steps or actions were initiated by the Karkhana. He, however, states that it is possible

that some agriculturists might have felt disturbed and, therefore, it may be that they had resorted to some methods. In any case, he assures in continuation to what is stated earlier that the Karkhana will not be a party to any such actions by anybody else whatsoever.

11. In view of the aforesaid statement of Mr.Jahagirdar, Mr.Surel Shah, on the instructions of the petitioner, who is present in Court, makes a statement that the Contempt Petition being Contempt Petition No.315 of 2006 will be withdrawn on the next date when it reaches before the concerned Court. This Contempt Petition is expected to be listed on Board on 12th of March 2007.

12. We appreciate the efforts taken by the petitioner to see to it that the pollution arising from the ash going from the steam boilers is arrested. We also appreciate the response of the Karkhana, though belate. Both the parties will see to it that the system becomes operational at the earliest and there is no bickering and in no case, the petitioner should be made to suffer in any manner whatsoever. In any event, if any such incident occurs leading to harassment of the

petitioner, it will be open to him to take appropriate steps at that stage.

13. Mr.Jahagirdar makes a further statement that he will advise the Authorities of respondent No.3-Karkhana to forward the plans of the proposed construction to National Environment Engineering Research Institute ("NEERI") which is an engineering organization, particularly concerning with arresting environmental pollution. We record this statement of Mr.Jahagirdar.

14. In view of what is stated above, the Petition stands disposed of. In view of the disposal of the main Petition, nothing survives in the Civil Applications taken therein and the same are disposed of as rendered infructuous.

(ACTING C.J.)

(V.M. KANADE, J.)